

is intended merely to provide the railroad with an opportunity to prepare its report to FRA, and does not excuse continued noncompliance.

(d) This subpart requires the submission of remedial actions reports for the general categories of physical defects, recordkeeping and reporting violations, and filing violations, where the railroad can literally and specifically correct a failure to comply with a provision of the Federal railroad safety laws, as reasonably determined by the FRA Safety Inspector. No railroad is required to submit a report for a failure involving either a completed or past transaction or a transaction that it can no longer remedy.

§ 209.403 Applicability.

This subpart applies to any railroad that receives written notification from an FRA Safety Inspector both (i) that assessment of a civil penalty will be recommended for its failure to comply with a provision of the Federal railroad safety laws and (ii) that it must submit a remedial actions report.

§ 209.405 Reporting of remedial actions.

(a) Except as provided in § 209.407, each railroad that has received written notification on Form FRA F 6180.96 from an FRA Safety Inspector both that assessment of a civil penalty will be recommended for the railroad's failure to comply with a provision of the Federal railroad safety laws and that it must submit a remedial actions report, shall report on this form all actions that it takes to remedy that failure. The railroad shall submit the completed form to the FRA Safety Inspector within 30 days after the end of the calendar month in which the notification is received.

(1) *Date of receipt of notification.* If the FRA Safety Inspector provides written notification to the railroad by first class mail, then for purposes of determining the calendar month in which notification is received, the railroad shall be presumed to have received the notification five business days following the date of mailing.

(2) *Completion of Form FRA F 6180.96, including selection of railroad remedial action code.* Each railroad shall com-

plete the remedial actions report in the manner prescribed on the report form. The railroad shall select the one remedial action code on the reporting form that most accurately reflects the action or actions that it took to remedy the failure, such as, repair or replacement of a defective component without movement, movement of a locomotive or car for repair (where permitted) and its subsequent repair, completion of a required test or inspection, removal of a noncomplying item from service but not for repair (where permitted), reduction of operating speed (where sufficient to achieve compliance), or any combination of actions appropriate to remedy the noncompliance cited. Any railroad selecting the remedial action code "other remedial actions" shall also furnish FRA with a brief narrative description of the action or actions taken.

(3) *Submission of Form FRA F 6180.96.* The railroad shall return the form by first class mail to the FRA Safety Inspector whose name and address appear on the form.

(b) Any railroad concluding that the violation alleged on the inspection report may not have occurred may submit the remedial actions report with an appropriate written explanation. Failure to raise all pertinent defenses does not foreclose the railroad from doing so in response to a penalty demand.

§ 209.407 Delayed reports.

(a) If a railroad cannot initiate or complete remedial actions within 30 days after the end of the calendar month in which the notification is received, it shall—

(1) Prepare, in writing, an explanation of the reasons for such delay and a good faith estimate of the date by which it will complete the remedial actions, stating the name and job title of the preparer and including either:

(i) A photocopy of both sides of the Form FRA F 6180.96 on which the railroad received notification; or

(ii) The following information:

(A) The inspection report number;

(B) The inspection date; and

(C) The item number; and

(2) Sign, date, and submit such written explanation and estimate, by first